IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

Crl.MC.No. 1751 of 2007()

AGAINST THE ORDERIN C.C.732/2003 IN
LP.203/2005 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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PETITIONER:

N.E.MUJEEB,
AGED 31 YEARS,
NEERUNKAL HOUSE,
KALAMASSERY.

BY ADV. SRI.K.J.ALPHONS
SRI.P.V.ANILKUMAR

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
KALAMASSERY POLICE STATION,
ERNAKULAM DISTRICT.

3. HARICHAND, S/O.T.K.SUBRAMANIYAN,
KANNAMMURI, EDAPPALLY, THRIKKARA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1751 of 2007

Dated this the 31st day of May, 2007

ORDER

The petitioner is the accused in a prosecution under Section 138 of the Negotiable Instruments Act. The petitioner did not appear before the learned Magistrate. He now finds himself in the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. The case has been transferred to the list of Long Pending Cases. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner was not wilful or intentional. The petitioner is willing to appear before the learned Magistrate and seek bail in the ordinary course, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, it is prayed that appropriate directions may be issued under Section 482 Cr.P.C to release the petitioner on bail when he appears and applies before the learned Magistrate.

2. I find no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-